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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,931	08/22/2003	Rejean Roy	247-1US	8272
5568	7590	09/21/2004	EXAMINER	
JACK PAAVILA BOX 1151 ALEXANDRIA, KOC IA0 CANADA			NGUYEN, SON T	
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			3643	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/645,931	Applicant(s) ROY, REJEAN	
	Examiner Son T. Nguyen	Art Unit 3643	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-22 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/22/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 1** is rejected under 35 U.S.C. 102(b) as being anticipated by US 6061957 (herein 957). 957 teaches a hydroponic growing unit having a base 18, the outer periphery of the base defined by an outer, vertical base wall the base shaped to hold liquid; a vertical plant support wall 66,70,24,68,64, forming a generally annular enclosure, the support wall mounted on the base wall to extend above the base and to enclose space above the base; and a least one opening (where door 76 opens to) in the support wall providing access to the enclosed space and to the inner surface of the support wall, the opening normally closed by at least one wall panel forming part of the support wall.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 2-5,10,11,15-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over 957 (as above) in view of JP401148131A (herein 131).

For claim 2, 131 teaches a hydroponic growing unit wherein the outer periphery of the base 12 is generally circular. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a circular base as taught by 131 in the growing unit of 957 for appearance.

For claims 3 & 4, in addition to the above, 131 further teaches wherein the base is in the shape of an annular trough, the trough having inner and outer vertical side walls and a bottom wall joining the side walls with the outer side wall of the trough forming the base wall (see fig. 2). In addition, wherein the trough has a well formed therein for collecting the liquid in the trough, the well sized to receive a pump for pumping liquid from the well. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a base that is in the shape of an annular trough, the trough having inner and outer vertical side walls and a bottom wall joining the side walls with the outer side wall of the trough forming the base wall and wherein the trough has a well formed therein for collecting the liquid in the trough, the well sized to receive a pump for pumping liquid from the well as further taught by 131 in the growing unit of 957 as modified by 131 in order to hold a pump in the trough's center as taught by 131 (see fig. 2).

For claim 5, 957 as modified by 131 (emphasis on 957) further teaches a light support 36 extending diametrically across the inner side wall of the unit and thus, the trough when modified with 131.

For claims 10 & 11, 957 as modified by 131 (emphasis on 957) further teaches light means 42 extending up from the middle of the base, the light means located in the center of the support wall.

For claims 15 & 17, 957 as modified by 131 (emphasis on 957) further teaches wherein the support wall, including the wall panel, has plant growing block support means (figs. 3 & 6) arranged about the inner surface of the support wall, the support means in a circle equally spaced apart and located at the top of the support wall (fig. 4).

For claims 16 & 18, 957 as modified by 131 (emphasis on 957) further teaches a watering inlet 40 associated with each support means 36, the watering inlets supported by the top of the support wall and connected via tubing and a pump 106 to the liquid in the base.

For claims 19 & 20, 957 as modified by 131 (emphasis on 957) further teaches including a growing block suspended from each block support means, the block comprising plant growing material encased in a cover, the block extending over the height of the support wall and having an inner surface facing inwardly toward the center of the support walls the cover on the inner surface having openings providing access to the growing material within the cover, the openings permitting plants to be planted in the growing material (see figs. 3 & 4).

5. **Claims 6-9,12-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over 957 as modified by 131 as applied to claims 1,3,5 above, and further in view of US 5228235 (herein 235).

For claim 6, 235 teaches a hydroponic unit including a tubular light means 14,141 extending up from the middle of the light support, the light means located in the center of the support wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a tubular light means as taught by 235 in the hydroponic system of 957 as modified by 131 in order to protect the light bulb and to prevent direct heat coming from the light bulb to the plants.

For claims 7 & 12, it would have been an obvious substitution of functional equivalent to substitute the light configuration of 957 as modified by 131 & 235 with one wherein the light means comprises a transparent tube having a light source at each end, and light source support means at each end, the light source support means being open to pass air through it, since both types would perform to provide light to the plants therein.

For claims 8 & 13, 957 as modified by 131 & 235 (emphasis on 957) further teaches a ventilating fan 126 at the bottom of the tube for drawing air into the tube to heat it and to cool the cool the light sources, the air emerging from the top of the tube into the enclosure to provide heat to the plants growing in the enclosure.

For claims 9 & 14, it would have been an obvious substitution of functional equivalent to substitute the light support of 957 as modified by 131 & 235 with one that including a top light support mounted on the top of the support wall and supporting the top end of the tube centrally within the support wall, since both types would perform to support the light source inside the unit.

Art Unit: 3643

6. **Claims 21,22** are rejected under 35 U.S.C. 103(a) as being unpatentable over 957 as modified by 131 as applied to claims 1,3 above, and further in view of US 3458951 (herein 951). 951 teaches a hydroponic unit wherein the support wall has two diametrically opposed openings (doors 158,160) therein, each opening closed by two end wall panels, each end wall panel hinged to the support wall, the end wall panels forming part of the support wall when closed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the support wall has two diametrically opposed openings (doors 158,160) therein, each opening closed by two end wall panels, each end wall panel hinged to the support wall, the end wall panels forming part of the support wall when closed as taught by 951 in the unit of 957 as modified by 131 in order to provide a larger access area into the interior of the unit.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen
Primary Examiner, GAU 3643
September 19, 2004